

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT COX,

Petitioner,

v.

CIVIL ACTION NO. 3:CV-09-268
(JUDGE KOSIK)

FILED
SCRANTON

COMMONWEALTH OF
PENNSYLVANIA, et al.,

MAR 20 2009

Respondents.

PER M. E. P.
DEPUTY CLERK

M E M O R A N D U M a n d O R D E R

AND NOW, THIS 26th DAY OF MARCH, 2009, IT APPEARING TO THE COURT

THAT:

- (1) Petitioner, Robert Cox, a prisoner confined at the Dauphin County Prison, Pennsylvania, filed the instant petition for writ of habeas corpus on February 10, 2009;
- (2) In his petition, petitioner is seeking an opportunity to contest a New Jersey state detainer;
- (3) The action was assigned to Magistrate Malachy E. Mannion for Report and Recommendation;
- (4) On February 13, 2009, the Magistrate Judge issued a Report and Recommendation wherein he recommended that the petition for writ of habeas corpus be dismissed with prejudice;
- (5) Specifically, the Magistrate Judge found that Petitioner failed to exhaust his state

court remedies in that his county court filing was returned to him for lack of a case number in his underlying state conviction;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F. 2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation.

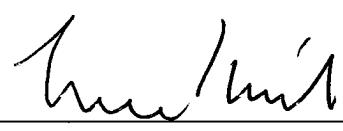
ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Malachy E. Mannion dated February 13, 2009 (Document 4) is **ADOPTED**;

(2) The petitioner's petition for writ of habeas corpus is **DISMISSED** with prejudice;

(3) The Clerk of Court is directed to **CLOSE** the case and forward a copy of this Memorandum and Order to the Magistrate Judge; and

(4) Based on the court's conclusions herein, there is no basis for the issuance of a certificate of appealability.



Edwin M. Kosik
United States District Judge